

Application No. 10/798,738
Amendment dated April 27, 2007
Response to Office Action of December 29, 2006
Attorney Docket No. 04-13259

Amendments to the Drawings:

Applicant encloses as Appendix 1 replacement drawing sheets 2-5 and 8 comprising amended Figures 2-5 and 8.

Attachment: Appendix 1 (Replacement Drawing Sheets)

REMARKS/ARGUMENT

Applicant hereby responds to the Office Action mailed December 26, 2006 and the March 30, 2007 telephone interview between the Examiner and Applicant's representative, Kelly W. Cunningham, Esq., Reg. No. 43,570.

A. Claim Rejection Under 35 U.S.C. Section 112

In the Office Action, the Examiner rejected claim 45, taking the position that the claim language "the first direction is oblique to said third direction" lacked sufficient antecedent basis. Apparently, Applicant had inadvertently typed "The method of claim 43" when in fact Applicant meant claim 45 to depend from claim 44. Accordingly, Applicant amends the first portion of the preamble of claim 45 to read "The method of claim 44," which corrects claim 45 and at the same time provides sufficient antecedent basis to overcome this rejection.

B. Claim Rejection Under 35 U.S.C. Section 103

1. Claims 38-43, 46, 47-59

The Examiner also rejected claims 38-43, 46, 47-59, taking the position that the claims are obvious in view of the combined teachings of Perrie, U.S. Patent No. 6,186,505 and Drouhard, U.S. Patent No. 6,520,502. Applicant respectfully disagrees. First, Applicant disagrees that there is any motivation in the prior art to combine Perrie and Drouhard to add to the game of Perrie a game piece and movement

of the game piece around the game board. Applicant disagrees that the disclosure of Perrie is at all disposed to the addition of game piece. Perrie discloses a game that is essentially the game of Bingo or Keno with a few inconsequential alterations. In general, in the method disclosed in Perrie, if the complete set of blue properties is lit up by a random number generator before any of the other complete sets of colored properties is lit up, the player, if any, who bet on the blue properties wins the wager. All other players who bet on other properties lose. Perrie discloses other minor variations for winning or losing a bet, but Applicant fails to see how this method of Perrie or any of its other variations are readily disposed to incorporate any moving game piece.

Second, Applicant disagrees that any combination of Perrie and Drouhard would make Applicant's claimed invention obvious. Neither Perrie nor Drouhard, nor their combined teachings, discloses moving a game piece from a non-absorbent point to either (1) another non-absorbent point, (2) a first absorbent point, or (3) a second absorbent point, wherein moving the game piece (1) to another non-absorbent point causes the game to continue, (2) to a first absorbent point causes the player to win a wager, and (3) to a second absorbent point causes the player to lose his or her wager. Drouhard discloses moving a game piece around the perimeter of a game board in a single predetermined direction a number of steps equal to the numbers taken from a roll of a pair of dice and drawing a card. While there certainly are other disclosures in

Drouhard, Applicant strongly believes that no combination of Perrie and Drouhard make any of Applicant's examined claims obvious.

In contrast, Applicant's novel and non-obvious claimed invention is a random walk. The direction the game piece takes is dictated by observed event. In general, it does not matter whether the point on which the game piece must be moved (based on this observed event) has or has not been previously occupied by the game piece. Neither Perrie nor Drouhard suggest any such random-walk type game. Applicant therefore proposes the claim amendments listed above in independent claims 38, 43, and 51 to clarify his invention. Applicant believes that such amendments are not narrowing amendments since they in fact insure the broader scope of the amended claim element -- namely, that the game piece may be moved to a dictated non-absorbent point not only if it had not previously been occupied by the game piece, but also if it had.

Applicant therefore respectfully requests reconsideration of the Patent Examiner's rejection in light of the above-listed patent claims as amended.

2. Claim 44

The Examiner also rejected claim 44, taking the position that the claim is obvious in view of the combined teachings of Perrie, Drouhard, and Piper, U.S. Patent No. 5,135,231. Applicant respectfully disagrees with this rejection. Applicant,

however, believes that this rejection is in any event rendered moot by the foregoing remarks and by the above-listed amendment to claim 43, which Applicant believes overcomes the rejection of claim 43.

3. Claims 45 and 46

The Examiner further rejected claims 45 and 46, taking the position that the claims are obvious in view of the combined teachings of Perrie, Drouhard, Piper, and Cambardella, U.S. Patent No. 4,070,026. Applicant respectfully disagrees with this rejection as well. Applicant, however, believes that this rejection is in any event rendered moot by the foregoing remarks and by the above-listed amendment to claim 43, which Applicant believes overcomes the rejection of claim 43.

In the telephonic interview between the Examiner and Applicant's representative held on March 30, 2007, Mr. Cunningham discussed how the invention distinguished over the prior art by disclosing and claiming a method wherein a game piece in effect takes something like a random walk, whether in one dimension, two dimensions, or more. Neither Perrie nor Drouhard discloses any such method for many reasons. For example, Applicant's game piece can go back to previously occupied non-absorbent point. Mr. Cunningham also discussed how the invention had both first (winning) and second (losing) absorbent points, which he argued neither Perrie nor Drouhard

discloses. The Examiner stated that she would reconsider these matters based on the interview.

Claims 38-59 therefore remain in this application. Applicant herein amends claim 45 to correct the preamble and amends claims 38, 43, and 58 to clarify the claimed method without narrowing the amended claim limitation. No new matter has been added to this application by way of any of the foregoing amendments.

The Examiner also required corrected drawings in compliance with 37 C.F.R. § 1.21(d), taking the position that the shading in Figures 2 and 3 make parts of the drawing unclear or difficult to comprehend. Accordingly, submits replacement drawing sheets 2 and 3 comprising replacement Figures 2 and 3, as requested by the Examiner. Applicant also voluntarily submits replacement drawing sheets 4, 5 and 8, comprising replacement Figures 4, 5, and 8 solely for similar legibility and copy-ability purposes. No new matter has been added to this application by way of any of the foregoing replacement drawing sheets.

Having responded to each of the Examiner's concerns, Applicant asserts that the application is now in condition for allowance and solicits such action. If a telephone interview will advance the allowance of the application, enabling an Examiner's

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amendment or other meaningful discussion of the case, Applicant requests the Examiner contact Applicant's representative at the number listed below.

It is not believed that any additional fees are due; however, in the event any additional fees are due, the Examiner is authorized to charge Applicant's attorney's deposit account no. 03-2030.

Respectfully submitted,

CISLO & THOMAS LLP

Date: April 27, 2007


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APPENDIX 1

(Replacement Drawing Sheets 2-5 and 8, comprising Figures 2-5 and 8)